

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 09-1388

United States of America,

Appellee,

v.

Michael Alan Petzold,

Appellant.

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Appeal from the United States
District Court for the
District of North Dakota.

[UNPUBLISHED]

Submitted: February 2, 2010

Filed: February 5, 2010

Before BYE, RILEY, and SHEPHERD, Circuit Judges.

PER CURIAM.

In this direct criminal appeal, Michael Petzold challenges the sentence imposed by the district court¹ after he pleaded guilty to conspiracy, murder, and related charges. His counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967).

Petzold pleaded guilty pursuant to a written plea agreement that contained a waiver of his right to appeal his sentence. We will enforce the appeal waiver here.

¹The Honorable Ralph Erickson, Chief Judge, United States District Court for the District of North Dakota.

See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (court should enforce appeal waiver and dismiss appeal where it falls within scope of waiver, both plea agreement and waiver were entered into knowingly and voluntarily, and no miscarriage of justice would result). Petzold's argument on appeal falls within the scope of the appeal waiver, the record shows the requisite knowledge and voluntariness, and we see nothing to suggest that a miscarriage of justice would result from enforcing the appeal waiver. See United States v. Michelsen, 141 F.3d 867, 871-72 (8th Cir. 1998) (appeal waiver is enforceable so long as it resulted from knowing and voluntary decision; examining personal characteristics of defendant and circumstances surrounding plea agreement when assessing knowledge and voluntariness of waiver).

Having reviewed the record independently pursuant to Penson v. Ohio, 488 U.S. 75 (1988) for any nonfrivolous issues not covered by the waiver, we find none. Accordingly, we grant counsel leave to withdraw and we dismiss the appeal.
